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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 CHRIS JONATHAN EPPERSON,

12 Plaintiff,

13 v.

14 UNITED STATES CONGRESS, THE
15 REPUBLICAN PARTY, HOUSE OF
16 REPRESENTATIVES, BILL CLINTON,
GEORGE BUSH,

17 Defendants.
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No. 1:23-cv-01687-KES-SKO

**FINDINGS AND RECOMMENDATION
THAT PLAINTIFF'S COMPLAINT BE
DISMISSED WITHOUT LEAVE TO
AMEND**

TWENTY-ONE DAY DEADLINE

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22 Plaintiff Chris J. Epperson, proceeding pro se and *in forma pauperis*, filed a complaint on
23 December 5, 2023. (Doc. 1). Upon reviewing the complaint, the Court concluded that it failed to
24 state any cognizable claims and granted Plaintiff the option to file a First Amended Complaint, to
25 stand on his current complaint, or to file a notice of voluntary dismissal. (Doc. 9). Plaintiff
26 subsequently filed a First Amended Complaint (Doc. 11) and various notices (Docs. 14, 15, 16)
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related to the First Amended Complaint.¹ The Court concludes that the First Amended Complaint fails to state any cognizable claims and recommends dismissing it without leave to amend.

I. SCREENING REQUIREMENT

In cases where the plaintiff is proceeding *in forma pauperis*, the Court is required to screen each case and shall dismiss the case at any time if the Court determines that the allegation of poverty is untrue, or that the action or appeal is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2); *see also Cato v. United States*, 70 F.3d 1103, 1106 (9th Cir. 1995) (district court has discretion to dismiss *in forma pauperis* complaint); *Barren v. Harrington*, 152 F.3d 1193 (9th Cir. 1998) (affirming *sua sponte* dismissal for failure to state a claim). If the Court determines that a complaint fails to state a claim, leave to amend may be granted to the extent that an amendment may cure the complaint's deficiencies. *Lopez v. Smith*, 203 F.3d 1122, 1130 (9th Cir. 2000) (*en banc*).

In reviewing the pro se complaint, the Court is to liberally construe the pleadings and accept as true all factual allegations contained in the complaint. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007). The Court, however, need not accept a plaintiff's legal conclusions as true. *Iqbal*, 556 U.S. at 678. "Where a complaint pleads facts that are 'merely consistent with' a defendant's liability, it 'stops short of the line between possibility and plausibility of 'entitlement to relief.'" *Id.* (quoting *Twombly*, 550 U.S. at 557).

II. SUMMARY OF PLAINTIFF'S COMPLAINT

A. First Amended Complaint

On the first page of the First Amended Complaint, Plaintiff lists himself as the plaintiff and the "United States Congress, the Republican Party, and the House of Representatives" as the defendants. (Doc. 11 at 1). On pages two and three of the complaint, Plaintiff lists George W. Bush, Barack H. Obama, Richard M. Nixon, and Lyndon B. Johnson as the defendants. (Doc. 11

¹ One of the documents Plaintiff has filed is titled "Second Amended Complaint," though it only contains a copy of the journal article, "The Classified Information Procedures Act (CIPA) and Suspected Terrorists in Civilian Courts: Subject to the Most Exacting Demands of Justice?" The Court will interpret this as supplementary briefing for Plaintiff's First Amended Complaint.

1 at 2-3). Plaintiff has also attached a civil cover sheet to his complaint where he lists the United
 2 States Congress, the Republican Party, and the House of Representatives as the defendants. (Doc.
 3 11-1 at 1). On page four, Plaintiff lists Vladimir Putin, a citizen of Moscow, Russia, as the
 4 defendant. (Doc. 11 at 40).

5 Plaintiff lists the basis for jurisdiction as both “Federal question” and “Diversity of
 6 citizenship.” (Doc. 11 at 3). He identifies “Rev St. 5511.1978.1979,5510,” “14 Stat. 27, Ch. 31,”
 7 and “16 Stat. 140, Ch. 114” as the specific federal statutes at issue in the case. (Doc. 11 at 4). On
 8 the civil cover sheet, Plaintiff cites 50 U.S. (2011) as the relevant statute and describes the cause
 9 of action as “Seditious Conspiracy.” (Doc. 11-1). Plaintiff also provided the following statement
 10 of the claim: “September 24, 1980 gun powder – plot of the Constitution laws had been violated
 11 by the actions of the state legislature in 1961. November 30, 1963 Executive Order 11130
 12 assassination plotted character for figure of speech John F. Kennedy.” (Doc. 11 at 5) (errors in
 13 original). Plaintiff states the amount in controversy exceeds \$75,000 because “[t]he defendant
 14 owes in the amount at stake 500,000,000 fiscal year of The Production Act of 1950.” (Doc. 11 at
 15 5).

16 For relief, Plaintiff requests “[t]he 25th section of the Judiciary Act of 1789, brought under
 17 the Constitution of the United States. Where prohibition is against State laws impairing the
 18 obligation of contracts 500,000,000 fiscal year Executive Order 11478.” (Doc. 11 at 6). He also
 19 notes the request in the complaint is a class action with a “400%” demand.” (Doc. 11-1).

20 III. DISCUSSION

21 A. Legal Standard

22 Rule 8 of the Federal Rules of Civil Procedure states that a complaint must contain “a
 23 short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ.
 24 P. 8(a)(2). The complaint must contain “sufficient factual matter, accepted as true, to ‘state a
 25 claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting
 26 *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “Taken together, *Iqbal* and *Twombly*
 27 require well-pleaded facts, not legal conclusions that plausibly give rise to an entitlement to relief.
 28 The plausibility of a pleading thus derives from its well-pleaded factual allegations.” *Whitaker v.*

1 *Tesla Motors, Inc.*, 985 F.3d 1173, 1176 (9th Cir. 2021) (cleaned up). Detailed factual allegations
 2 are not required, but “[t]hreadbare recitals of the elements of a cause of action, supported by mere
 3 conclusory statements, do not suffice.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Bell*
 4 *Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). “Although a pro se litigant . . . may be
 5 entitled to great leeway when the court construes his pleadings, those pleadings nonetheless must
 6 meet some minimum threshold in providing a defendant with notice of what it is that it allegedly
 7 did wrong.” *Brazil v. United States Dep’t of the Navy*, 66 F.3d 193, 199 (9th Cir. 1995). A
 8 complaint may be dismissed as a matter of law for failure to state a claim based on (1) the lack of
 9 a cognizable legal theory; or (2) insufficient facts under a cognizable legal theory. *See Balistreri*
 10 *v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1988). The plaintiff must allege a minimum
 11 factual and legal basis for each claim that is sufficient to give each defendant fair notice of what
 12 the plaintiff’s claims are and the grounds upon which they rest. *See, e.g., Brazil v. U.S. Dep’t of*
 13 *Navy*, 66 F.3d 193, 199 (9th Cir. 1995); *McKeever v. Block*, 932 F.2d 795, 798 (9th Cir. 1991).

14 A complaint will be considered frivolous, and therefore subject to dismissal under §
 15 1915(e)(2)(B), “where it lacks an arguable basis either in law or in fact.” *Nietzke v. Williams*, 490
 16 U.S. 319, 325 (1989); *see also Denton v. Hernandez*, 504 U.S. 25, 32–33 (1992) (“At the same
 17 time that it sought to lower judicial access barriers to the indigent, however, Congress recognized
 18 that ‘a litigant whose filing fees and court costs are assumed by the public, unlike a paying
 19 litigant, lacks an economic incentive to refrain from filing frivolous, malicious, or repetitive
 20 lawsuits.’”). A federal court cannot properly *sua sponte* dismiss an action commenced in forma
 21 pauperis if the facts alleged in the complaint are merely “unlikely.” *Denton*, 504 U.S. at 33.
 22 However, a complaint may be properly dismissed *sua sponte* if the allegations are found to be
 23 “fanciful,” “fantastic,” or “delusional,” or if they “rise to the level of the irrational or the wholly
 24 incredible.” *Id.* at 32–33. If a case is classified as frivolous, “there is, by definition, no merit to
 25 the underlying action and so no reason to grant leave to amend.” *Lopez v. Smith*, 203 F.3d 1122,
 26 1127 n. 8 (9th Cir. 2000).

27 **B. Analysis**

28 Plaintiff’s complaint is insufficient under Rule 8. A complaint is required to contain facts

1 sufficient to demonstrate a defendant is liable for the alleged conduct (*Iqbal*, 556 U.S. at 678),
2 and it must be written so a defendant can respond to the claims. *Cafasso, U.S. ex rel. v. General*
3 *Dynamics C4 Systems, Inc.*, 673 F.3d 1047, 1059 (9th Cir. 2011). Plaintiff neither lists any
4 discernible factual allegations in the complaint, nor establishes how any defendant's actions
5 violated Plaintiff's rights. Without any discernible factual allegations, this Court cannot determine
6 what Plaintiff alleges occurred and whether any of the listed defendants may be liable for such
7 conduct. Courts are to construe pro se pleadings liberally, but "a plaintiff nonetheless must allege
8 a minimum factual and legal basis for each claim that is sufficient to give each defendant fair
9 notice of what plaintiff's claims are and the grounds upon which they rest." *Perez v. Unknown*,
10 No. CV 18-08535 ODW (AFM), 2018 WL 6025844, at *3 (C.D. Cal. Nov. 16, 2018) (citing
11 *Brazil*, 66 F.3d at 199). Plaintiff has not done so here.

12 Plaintiff's complaint is generally incoherent. Plaintiff vaguely asserts his cause of action
13 is related to the "assassination plot" of former President John F. Kennedy," and includes Vladimir
14 Putin as a defendant. He appears to suggest various defendants, including deceased former
15 presidents, have taken part in a seditious conspiracy, which amounts to a fanciful allegation. The
16 Court has previously given Plaintiff the opportunity to amend his complaint, but he has yet to file
17 a comprehensible complaint. Accordingly, Plaintiff's complaint should be dismissed. *See Sameer*
18 *v. Khera*, No. 1:17-cv-01748-DAD-EPG, 2018 WL 6338729, at *2 (E.D. Cal. Dec. 5, 2018),
19 *appeal dismissed as frivolous*, No. 19-15011, 2019 WL 7425404 (9th Cir. Aug. 27, 2019)
20 (dismissing the case with prejudice for lack of subject matter jurisdiction as "the only appropriate
21 response" to "fanciful allegations" in complaint that "alleges the existence of a vast conspiracy
22 bent on plaintiff's destruction"); *Ayres v. Obama*, Civil No. 13-00371 SOM/RLP, 2013 WL
23 5754953, at *2 (D. Hawai'i Oct. 22, 2013) (allegations that FBI implanted biochips in plaintiff
24 and her family to turn them into "a living vegetable or a New World Order slave" were "so
25 'fantastic' and 'fanciful' as to be clearly baseless"); *Bivolarevic v. U.S. CIA*, No. C 09-4620 SBA,
26 2010 WL 890147, at *1-2 (N.D. Cal. Mar. 8, 2010) (court lacked jurisdiction over claims that
27 CIA subjected plaintiff to "voice to skull technology" as a "mind control weapon").
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